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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,296	11/16/2000	Larry Perrault	45197.2	3706

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EXAMINER

A, PHI DIEU TRAN

ART UNIT PAPER NUMBER

3637

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/713,296

Applicant(s)

PERRAULT ET AL.

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 18, 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 recites the limitation "said planar member" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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4. Claims 17, 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Kost (6047503).

Kost (figure 12) shows an improved roof truss having a bottom chord (23), a bottom plate (2A) disposed beneath the bottom chord, means (24, 25A, 25C) for attaching the bottom plate to the bottom chord, spacers (6) disposed between the bottom plate and the bottom chord which creates a thermal gap between the bottom plate and the bottom chord, a strap (24) located at the intersection of the bottom plate and an interior partition wall (1D), said strap passing between bottom plate (2A) and the bottom chord (23), the planar member (the part that angles out) may be fastened to the interior partition wall, wherein fasteners (25A, 25C) can be driven through the planar member on either side of the bottom plate so as to attach the bottom plate to the partition wall, the strap being metal.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7-11, 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kost (6047503).

Kost shows an improved roof truss comprising a bottom chord (23, figure 12), a bottom plate (2A, figure 12) disposed beneath the bottom chord, means (24, 7, 8) for attaching the bottom plate to the bottom chord (which inherently would allow separation of the bottom plate

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from the bottom chord when the bottom plate is attached to an interior partition wall and the roof truss rises relative to the interior partition wall), the means being a plurality of connectors (24, 7, 8), the connectors being removable (inherently so by removing the fasteners 25A, 25C, the teeth), the connectors being frangible (inherently so as it has holes along the length), the means for attaching the bottom plate to the roof truss comprising one or more connectors slidably attached to the bottom plate and the roof truss (the connectors 24 slidable between the plate and the chord before nailing), the connectors being gang plates (7 with teeth), the connectors having a plurality of wood fasteners (25A, 25C inherently wood fasteners as they fasten the connectors to the wooden frame) and hangers (24) having a plurality of holes, the wood fasteners connecting the bottom plate and the hangers through the holes, the fasteners connecting the bottom plate(2A) to the bottom chord (23), the hangers (24) being metallic wrapped around hangers (col 4 last line), the hangers(7, 8) having perforations (7A) disposed in such a way that if the hanger is severed at the perforation, the hanger and fasteners no longer work to attach the bottom plate to the bottom chord, the hangers (7, 8) being slidably attached to the bottom plate and the bottom chord(the hangers slidable between the plate and the chord before nailing), the hangers being U(8) or H(7) shaped hangers

Kost does not show the roof truss comprising a bottom chord, a top chord and at least two intermediate members creating a triangular shape with one of the top or bottom chords.

Applicant discloses roof trusses comprising a bottom chord, a top chord and at least two intermediate members creating a triangular shape with one of the top or bottom chords being well-known in the art.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kost to show the roof truss comprising a bottom chord, a top chord and at least two intermediate members creating a triangular shape with one of the top or bottom chords because it is well known in the art to have a roof truss having a bottom chord, a top chord and at least two intermediate members creating a triangular shape with one of the top or bottom chords as taught by Applicant.

7. Claims 1, 2, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rydeen (6047503) in view of Applicant's disclosure.

Rydeen (figure 1) shows an improved roof truss comprising a bottom chord (14), at least two intermediate members (15) creating a triangular shape with the bottom chord, a bottom plate (13) disposed beneath the bottom chord, means (11) for attaching the bottom plate to the bottom chord which inherently would allow separation of the bottom plate from the bottom chord when the bottom plate is attached to an interior partition wall and the roof truss rises relative to the interior partition wall, the means (11) comprising a plurality of connectors, the connectors being fasteners (11) driven through the bottom plate into the bottom of the bottom chord (14).

Rydeen does not show a top chord forming the roof truss with the bottom chord and the two intermediate members.

Applicant discloses roof trusses comprising a bottom chord, a top chord and at least two intermediate members creating a triangular shape with one of the top or bottom chords being well-known in the art.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rydeen to show the roof truss comprising a bottom chord, a top chord and at

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least two intermediate members creating a triangular shape with one of the top or bottom chords because it is well known in the art to have a roof truss having a bottom chord, a top chord and at least two intermediate members creating a triangular shape with one of the top or bottom chords as taught by Applicant.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kost in view of Applicant's disclosure as applied to claim 8 above, and further in view of Boozer (5743063).

Kost as modified shows all the claimed limitations except for the holes being vertically slotted holes.

Boozer discloses slotted holes (figure 8C) for connecting a hanger(89) to other structural members.

It would have been an obvious matter of design choice to modify Kost's modified structure to show the holes being vertically slotted holes as taught by Boozer because it would have been an obvious matter of engineering design choice to have the holes being vertically slotted holes since applicant has not disclosed that the vertically slots holes solve any stated problem or is for any particular purpose and it appears that the invention would perform equally well with holes.

Allowable Subject Matter

9. Claims 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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10. The following is a statement of reasons for the indication of allowable subject matter: prior art does not show the improved truss having a bottom chord, a bottom plate beneath the bottom chord, spacers between the bottom plate and the bottom chord forming a thermal gap, means attaching the bottom chord to the bottom plate, a bracket positioned between the bottom plate and the bottom chord, the bracket having a horizontal planar member on top of the bottom plate, the horizontal planar member being attached to vertical planar members on either side of the bottom plate, the vertical planar members being attached to horizontal planar members extending away from the bottom plate along the top surface of the interior partition wall, the bracket being attached to the top surface of the interior partition wall with fasteners driven through the planar members extending away from the bottom plate.

Response to Arguments

Applicant's arguments filed 12/29/03 to claims 1-21 have been fully considered but they are not persuasive.

With respect to applicant's argument that the structure elements 23 and 2A are not bottom chord or bottom plate respectively. Examiner respectfully disagrees. Kost's structural elements 23 and 2A are top parts of a wall structure. First of all, the structures meet the claimed structural limitations. There is nothing that distinguishes applicant's claimed structures from the elements disclosed in Kost. Applicant states in the remarks that Kost's bottom plate is perpendicular to the bottom chord and that applicant's bottom plate being parallel to the bottom chord, the argument is moot as "parallel/perpendicular" is not claimed limitations. The arguments are thus moot.

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With respect to applicant's arguments that Rydeen's support beam (13) is not the bottom plate, examiner respectfully disagrees. Rydeen teaches all the claimed limitations and satisfies the claimed requirement for the "bottom plate". Also, the remarks to "perpendicular/parallel" are moot, as they are not claimed. The arguments are thus moot.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A

6/30/04